

**REMARKS**

Claims 1-21 and 28-33 were pending in this application. Claims 1-3 are amended herein. Support for the amendments are found throughout the specification, *e.g.*, page 16, line 10 - page 21, line 3, and Example 9. The amendments are made solely to promote prosecution without prejudice or disclaimer of any previously claimed subject matter. With respect to all amendments, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future applications. Claims 1-21 and 28-33 are presently pending. No claim has been allowed.

**Formal Matters**

Applicants gratefully acknowledge the removal of the restriction requirement set forth in the Action dated March 27, 2002 and the entry of the amendment dated April 29, 2002 (Paper No. 7).

The Action objects to the specification because of the alleged use of numerous improperly demarcated trademarks were noted in the specification. The specification is amended herein.

The Action objects to the specification because the disclosure refers to embedded hyperlinks. The specification is amended herein.

Applicants have also amended the specification to correct some minor typographical errors.

**Rejection under 35 U.S.C. §103 (a)**

Claims 1-16 are rejected under 35 U.S.C. §103 (a) as allegedly being unpatentable over U.S. Patent No. 6,290,712-B1 (hereinafter the '712 patent) in view of U.S. Patent Nos. 4,436,727, 4,912,094, 5,149,527, 5,579,554, 5,747,475, 5,770,619, 6,929,105, 5,990,149, 6,071,944, and 6,149,671 and Momma et al., Fischer et al., Karrer et al., Lapeš et al., and van Hillegersberg et al. for reasons of record. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the combination of cited references does not result in the claimed methods. None of the references cite the use of photodynamic therapy, immunoadjuvants,

and immunomodulatory cytokines in a combined therapy to treat metastatic tumors. In the absence of any teaching or suggestion of using an immunomodulatory cytokine such as Flt3 ligand or GM-CSF in combination with photodynamic therapy and immunoadjuvants, the combination of the '712 patent with one or more of the cited references does not teach or suggest every element in the claimed method. In the absence teaching every element of the claimed methods, the cited references necessarily provide neither the motivation to combine and modify the references to result in the claimed invention nor a reasonable expectation of success in making such a modification. Hence, the cited combination fails to establish *prima facie* obviousness of the claimed methods.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103 (a).

#### **Rejection Under Judicially-Created Doctrine of Obviousness-Type Double Patenting**

Claims 1-17 and 28-33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-16 of co-pending Application Serial No. 09/556,833. Applicants respectfully request this rejection be held in abeyance until such time that patentable subject matter is indicated.

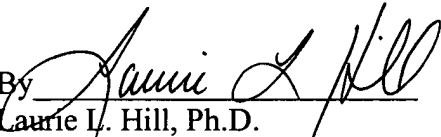
**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 273012011120.

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Respectfully submitted,

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